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"A Discriminatory Effect on Women": Implications of *Volodina v. Russia* in Promulgating Domestic Violence Protection in Russia

Kendra D. Roberts

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“A Discriminatory Effect on Women”: Implications of *Volodina v. Russia* in Promulgating Domestic Violence Protection in Russia

Kendra D. Roberts[†]

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I. Introduction

On July 9, 2019, the European Court of Human Rights

[†] J.D. Candidate 2021, University of North Carolina School of Law. Notes & Comments Editor, *North Carolina Journal of International Law*. The author would like to thank her editor, Laida Alarcon, for her invaluable feedback and support.

United Nations Convention on the Elimination of All Forms of Discrimination Against Women,⁹ Russia is obliged to stop violence against women by both private individuals and the government,¹⁰ but instead, Russia has failed to create systematic safeguards to protect victims.¹¹ In fact, Russia has rolled back previous established avenues of protection by decriminalizing non-aggravated battery offenses in 2016 and re-defining aggravated battery to exclude domestic violence in 2017.¹² Under this regime, victims have found neither support nor remedy from the government.¹³ However, with the culmination of *Volodina*, other pending cases in the ECtHR,¹⁴ and increased attention to the issue,¹⁵ Russia may be pressured to proactively combat violence against women.¹⁶

generally Nerses Isajanyan, *Russian Federation: Decriminalization of Domestic Violence*, L. LIBR. CONG., (June 2017), <https://www.loc.gov/law/help/domestic-violence/russia-decriminalization-domestic-violence.pdf> [<https://perma.cc/4TQC-8MW8>].

⁹ Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”), Dec. 18, 1979, 1249 U.N.T.S. 14 (ratified by the Russian Federation Jan. 23, 1981).

¹⁰ CEDAW, General Recommendation 19: Violence Against Women, 11th Sess., ¶¶ 9, 24 U.N. Doc. A/47/8 [hereinafter CEDAW General Recommendation No. 19] (finding states must act with “due diligence” to prevent violations of rights or to investigate and punish acts of violence against women).

¹¹ See Gorbunova, *supra* note 7.

¹² Isajanyan, *supra* note 8, at 4. For a full description of these legislative changes, see *infra* Part III.A.

¹³ See Andrew Higgins, *Russia’s Police Tolerate Domestic Violence. Where Can Its Victims Turn?*, N.Y. TIMES (July 11, 2019), <https://www.nytimes.com/2019/07/11/world/europe/russia-domestic-violence-european-court-of-human-rights.html> [<https://perma.cc/97QB-X9Z9>].

¹⁴ *Tunikova v. Russia and 3 Other Applications*, App. No. 55974/16, Eur. Ct. H.R. (June 28, 2019), [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-194607%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-194607%22]}) [<https://perma.cc/K3U3-TMPJ>]. The four other pending cases are *Tunikova v. Russia*, *Gershman v. Russia*, *Petrakova v. Russia*, and *Gracheva v. Russia*. *Id.* For a discussion on the facts and current status of the four cases, see *infra* Part V.B.ii.

¹⁵ See Gorbunova, *supra* note 7.

¹⁶ Currently, there is a draft bill to help victims of domestic violence. *Проект Закона о Профилактике Семейно-Бытового Насилия* [Draft Law on the Prevention of Domestic Violence], СОВЕТ ФЕДЕРАЦИИ ФЕДЕРАЛЬНОГО СОБРАНИЯ РОССИЙСКОЙ ФЕДЕРАЦИИ [FED’N COUNCIL OF THE FED. ASSEMBLY OF THE RUSS. FED’N] (Nov. 29, 2019), http://council.gov.ru/services/discussions/themes/110611/?fbclid=IwAR2eaGXQURPGm dRdETlyC_9dEy0ADcXNViHTlyK8KLMavtPLXGA79b6LIY [<https://perma.cc/L8TR-QKZ6>] [hereinafter *Draft Law on the Prevention of Domestic Violence*]. For a full discussion on the bill, see *infra* Part IV.A.

Part II provides background information on the ECtHR as well as a history of *Volodina v. Russia*. Part III analyzes the state of the law regarding domestic violence in Russia and the lack of protections for victims. Part IV discusses the prevalence of domestic violence in the nation and its normalization as a part of life for the Russian family. Part V examines the implications of *Volodina*, including pending legislation and other solutions. Part VI concludes the piece.

II. Legal Background

A. A History of the European Court of Human Rights

Born from the ashes of World War II, the United Nations was formed in October of 1945¹⁷ to “save succeeding generations from the scourge of war,” “to reaffirm faith in fundamental human rights,” and “to promote social progress and better standards of life in larger freedom[.]”¹⁸ Among the United Nations’ first actions was the creation of the Universal Declaration of Human Rights (“UDHR”).¹⁹ Adopted on December 10, 1948, and guaranteeing freedoms such as the “right to life, liberty and security of person[.]”²⁰ the UDHR is touted “as a common standard of achievement[] for all peoples and all nations[.]”²¹

Two years later, the Council of Europe, a regional human rights organization, adopted the European Convention on Human Rights (“Convention”) which gave effect to the protections named in the UDHR.²² Every member-state of the Council of Europe has ratified

¹⁷ *History of the United Nations*, U.N., <https://www.un.org/en/sections/history/history-united-nations/index.html> [https://perma.cc/5GCN-QJ65] (last visited June 7, 2020).

¹⁸ U.N. Charter Preamble.

¹⁹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 12, 1948).

²⁰ *Id.* art. 3.

²¹ *Universal Declaration of Human Rights*, U.N., <https://www.un.org/en/universal-declaration-human-rights/> [https://perma.cc/8AEQ-XBFF] (last visited June 7, 2020); *see also The Universal Declaration of Human Rights*, U.N. HUM. RTS. OFF. OF THE HIGH COMM’R (“OHCHR”), <https://www.ohchr.org/en/udhr/pages/udhrindex.aspx> [https://perma.cc/F67Q-HWGS] (last visited Jan. 20, 2020) (“Translated into hundreds of languages and dialects from Abkhaz to Zulu, the UDHR set a world record in 1999 for being the most translated document in the world. [The Office of the High Commissioner for Human Rights’] goal is to share the UDHR with the entire world[.]”).

²² *See* European Convention on Human Rights and Fundamental Freedoms, arts. 2, 3, 14, Nov. 4, 1950, 213 U.N.T.S. 222 [hereinafter European Convention on Human

this treaty, illustrating a promise to uphold its values.²³ Section II of the Convention created an international judiciary organ, the European Court of Human Rights, to enforce the UDHR.²⁴ This court looks to member-state nations to determine whether fellow nations have breached their citizens' rights guaranteed by the Convention.²⁵ To have standing in the ECtHR, a petitioner must have exhausted all domestic remedies²⁶ and allege a specific violation of the articles of the Convention.²⁷ Judgments from the ECtHR are final,²⁸ and since its founding in 1959, the ECtHR "has delivered more than 10,000 judgments regarding alleged violations of the [Convention]."²⁹

The ECtHR was created to enforce two important provisions of the Convention. First, Article 3 guarantees that "[n]o one shall be subjected to torture or to inhuman or degrading treatment or punishment."³⁰ Second, Article 14 provides that "[t]he enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."³¹ It is through these articles that Ms. Volodina

Rights]. The Convention is also known as the Convention for the Protection of Human Rights and Fundamental Freedoms. *Id.* "[T]he Council of Europe is the oldest and largest European organization, unifying 47 member states to promote human rights." *About the Council of Europe*, COUNCIL OF EUR., <https://www.coe.int/en/web/yerevan/the-coe/about-coe/overview> [<https://perma.cc/AM67-LKP9>] (last visited June 7, 2020). To prevent confusion, it is important to distinguish between the Council of Europe, the European Council, and the European Union. *Do Not Get Confused*, COUNCIL OF EUR., <https://www.coe.int/en/web/about-us/do-not-get-confused> [<https://perma.cc/3SYM-XPTC>] (last visited June 7, 2020) (providing a brief overview of the three organizations).

²³ See *Chart of Signatures and Ratifications of Treaty 005*, COUNCIL OF EUR., https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=csTztz7n [<https://perma.cc/P3AU-435F>] (last updated Jan. 20, 2020).

²⁴ European Convention on Human Rights, *supra* note 22, arts. 19–51.

²⁵ See EUR. CT. HUM. RTS., *supra* note 3.

²⁶ European Convention on Human Rights, *supra* note 22, art. 35.

²⁷ See *id.* art. 34.

²⁸ *Id.* art. 44.

²⁹ *European Court of Human Rights*, INT'L JUST. RES. CTR., <https://ijrcenter.org/european-court-of-human-rights/> [<https://perma.cc/DD2Q-34J7>] (last visited Jan. 20, 2020).

³⁰ European Convention on Human Rights, *supra* note 22, art. 3.

³¹ *Id.* art. 14.

brought her case to the ECtHR.

B. Statement of the Case

Ms. Volodina began to date her assailant, S, in November 2014 in the city of Ulyanovsk.³² After a separation in May 2015, S began to threaten and abuse, physically and mentally, Volodina for the next three years.³³ Volodina repeatedly sought protection from authorities and a haven in the judicial system—each time she was denied.³⁴

In January 2016, Volodina reported to authorities that S had damaged her car's windscreen.³⁵ Russian authorities refused to prosecute S, reasoning that as he had replaced the windshield, no crime had occurred, and S's "actions had not constituted any offence."³⁶ That same month, Volodina escaped to Moscow.³⁷ After publishing her curriculum vitae online, Volodina was contacted by an alleged human resources manager, D, for an interview, where D arranged transportation.³⁸ When D arrived, S emerged from the back of the car, and took Volodina's phone and other items. S forcefully returned Volodina to Ulyanovsk.³⁹ During several days of imprisonment, S beat Volodina, resulting in her hospitalization.⁴⁰ After Volodina reported the attack, authorities refused to initiate proceedings as they had not received a written complaint from her.⁴¹ In March of 2016, Volodina withdrew her complaint and police declined to prosecute S, holding no crime had been committed.⁴²

That May, S punched and strangled Volodina who again went to the police, only to be met with yet another refusal to prosecute,

³² *Volodina*, App. No. 41261/17, ¶ 8.

³³ *Id.* ¶ 9.

³⁴ *Id.* ¶¶ 9–16.

³⁵ *Id.* ¶ 10.

³⁶ *Id.* ¶ 11.

³⁷ *Id.* ¶ 12.

³⁸ *Volodina*, App. No. 41261/17, ¶¶ 12–13.

³⁹ *Id.* ¶ 13.

⁴⁰ Injuries to Volodina included bruising to the soft tissue on her head and increased risk of a miscarriage because she was nine weeks pregnant. Volodina underwent a medically-induced abortion at this time. *Id.* ¶ 14.

⁴¹ *Id.* ¶ 15.

⁴² *Id.* ¶ 16.

reasoning that a single punch did not constitute battery, which requires a victim to sustain two or more punches.⁴³ Volodina again fled to Moscow.⁴⁴

In July and August, S physically attacked Volodina, threatened to kill her, and damaged the hydraulic braking system of her car.⁴⁵ Volodina pled to authorities for relief but was again denied because a single blow did not constitute battery and the threats were insufficient to prove her life was in danger.⁴⁶ Authorities also refused to pursue criminal charges by classifying this violence as a lover's quarrel, noting that Volodina and S "knew each other, had lived together before and had maintained a common household."⁴⁷

In early 2018, S shared Volodina's private photographs on social media.⁴⁸ In March of the same year, S placed threatening phone calls to Volodina and lurked around her home.⁴⁹ The police declined to open an investigation, arguing there was no danger that S would carry out his threats.⁵⁰ Later that month, when Volodina was taking a taxi, S intercepted the taxi, jerked Volodina from the car and began to drag her towards his car.⁵¹ After Volodina sprayed tear gas into S's face, he grabbed her purse and fled.⁵² Volodina went to the police station to report this attack and S shortly arrived and returned her items.⁵³ Police declined to open an investigation stating that because the items had been returned, no crime had taken place.⁵⁴

Volodina then asked for state protection.⁵⁵ The authorities refused, noting that "'no real threats to her person or property from [S] . . . have been established. The threats that [Volodina] previously complained about are the product of

⁴³ *Volodina*, App. No. 41261/17, ¶ 19.

⁴⁴ *Id.* ¶ 20.

⁴⁵ *Id.* ¶¶ 21–22.

⁴⁶ *Id.* ¶ 23.

⁴⁷ *Id.*

⁴⁸ *Id.* ¶ 30.

⁴⁹ *Volodina*, App. No. 41261/17, ¶ 31.

⁵⁰ *Id.*

⁵¹ *Id.* ¶ 32.

⁵² *Id.* ¶ 32 (2019).

⁵³ *Id.* ¶¶ 32–33.

⁵⁴ *Id.* ¶¶ 34–36.

⁵⁵ *Volodina*, App. No. 41261/17, ¶ 37.

personal hostility between them and of [S]'s jealousy.”⁵⁶ Volodina has since legally changed her name to prevent S from finding her.⁵⁷

Volodina brought an action to the ECtHR against Russia in June 2017⁵⁸ alleging that “Russian authorities had failed in their duty to prevent, investigate and prosecute acts of domestic violence which she had suffered at the hands of her former partner and that [Russia] had also failed to put in place a legal framework to combat gender-based discrimination against women.”⁵⁹ Volodina provided evidence of the prevalence of domestic violence in Russia and its adverse effects on women.⁶⁰ Evidence included a report from the Ministry of the Interior finding in 2015 that 54,285 reports of crimes in the home were reported of which 32,602 were against women; in 2016, the number of crimes in the home increased to 65,535 with 42,164 being against women; and in 2017, while the number dropped to 38,311 reports of crimes in the home, 24,058 were committed against women.⁶¹ Other evidence introduced included (1) a study from the Russian Federal Statistics Survey and the Ministry of Health finding that 20% of women experienced physical violence and 38% had been subjected to verbal abuse;⁶² (2) a report by the Anna Centre for the Prevention of Domestic Violence, a Russian nongovernmental organization, which found “violence in one form or another in every fourth family,” and that “two-thirds of homicides were attributable to family/household-related motives, that about 14,000 women died each year at the hands of their husbands or relatives, and that up to 40% of all serious violent crimes were committed within families[;]”⁶³ and (3) a report by Russia’s High Commissioner for Human Rights who “noted a lack of progress in addressing the problem of domestic violence[.]”⁶⁴

⁵⁶ *Id.*

⁵⁷ *Id.* ¶ 39.

⁵⁸ *Id.* ¶¶ 1–3.

⁵⁹ *Id.* ¶ 3.

⁶⁰ *Id.* ¶¶ 40–45.

⁶¹ *Volodina*, App. No. 41261/17, ¶ 41.

⁶² *Id.* ¶ 42.

⁶³ *Volodina*, App. No. 41261/17, ¶ 44.

⁶⁴ *Id.* ¶ 45; see also Уполномоченный принял участие в конференции “Женщины против насилия” [*The Commissioner Took Part in the Conference “Women Against Violence”*], УПОЛНОМОЧЕННОГО ПО ПРАВАМ ЧЕЛОВЕКА В РОССИЙСКОЙ ФЕДЕРАЦИИ [COMM’R FOR HUM. RTS. IN THE RUSS. FED’N] (Dec. 7, 2017), http://ombudsmanrf.org/news/novosti_upolnomochennogo/view/upolnomochennyj_prinj

The ECtHR held that Russia had violated Article 3 of the Convention by allowing Ms. Volodina to be subject to repeated torture, degradation, and inhuman treatment.⁶⁵ The court held Russia responsible for the violations because it failed to meet three obligations required of member-states in order to protect individuals within their borders against ill treatment.⁶⁶ The breached obligations to protect individuals include (1) establishing “an adequate legal framework affording protection against ill-treatment by private individuals;” (2) taking “reasonable measures . . . to [protect against] a very real and immediate risk of ill-treatment of which authorities knew[;]” and (3) conducting “an effective investigation when an arguable claim of ill-treatment has been raised[.]”⁶⁷

For the first obligation, the ECtHR found that because Russia’s Criminal Code fails to “define domestic violence . . . as a separate offence or an aggravating element of other offences . . . [the Code] falls short of the requirements inherent in the State’s positive obligation to establish and apply effectively a system punishing all forms of domestic violence and providing sufficient safeguards for victims.”⁶⁸ For the second obligation, the Court held Russia failed to prevent occurrences of violence because authorities took no measures of protections such as “restraining orders, protection orders or safety orders” to stop further contact between the victim and abuser.⁶⁹ Russia failed in its third obligation because it did not open a full criminal case against S, instead opting to complete “pre-investigation inquiries” which were not “serious attempt[s]” to protect Volodina.⁷⁰

Additionally, the ECtHR found Russia’s failure to adopt

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[<https://perma.cc/MZR2-ZRZK>].

⁶⁵ *Volodina*, App. No. 41261/17, ¶ 102.

⁶⁶ The ECHR states that member-states have “positive obligations under Article 1 of the Convention” that must be “read in conjunction with Article 3, to ensure that individuals within their jurisdiction are protected against all forms of ill-treatment[.]” *Id.* ¶ 76.

⁶⁷ *Id.* ¶ 77.

⁶⁸ The Court further lamented that Russia failed its positive obligation to set a framework where there is a “minimum threshold of gravity of injuries required for launching public prosecution[.]” *Id.* ¶ 85. For a discussion on Russia private versus public prosecution systems, see *infra* Part III.B.

⁶⁹ See *Volodina*, App. No. 41261/17, ¶¶ 88–90.

⁷⁰ See *id.* ¶¶ 94–101.

legislation or other protective measures had resulted in extensive domestic violence nationwide, resulting in a “discriminatory effect on women[,]” violative of Article 14 as the violence disproportionately affects women, and that this lack of redress means women do not have equal protection of the law.⁷¹ Thus, the ECtHR found Russia failed in its obligations to protect its female citizens against domestic violence.

III. State of the Law Regarding Domestic Violence in Russia

A. *Limitations of the Russian Criminal Code*

Russia guarantees equality for all in its constitution,⁷² but this façade of protection quickly disintegrates in light of Russia’s lack of legislation addressing domestic violence. Instead of relying on guaranteed constitutional protections, victims are forced to ground their domestic violence claims among other provisions in the Russian Criminal Code.⁷³ This Code, however, offers little, if any, remedy for victims as it fails to account for domestic violence

⁷¹ *Id.* ¶¶ 132–33 (“[T]he continued failure to adopt legislation to combat domestic violence and the absence of any form of restraining or protection orders clearly demonstrate . . . the problem of domestic violence in Russia and its discriminatory effect on women.”). For a discussion on gender discrimination cases and the ECHR, see generally, LISA MCINTOSH SUNDSTROM ET AL., *COURTING GENDER JUSTICE: RUSSIA, TURKEY, AND THE EUROPEAN COURT OF HUMAN RIGHTS* (Oxford University Press 2019).

⁷² KONSTITUTSIYA ROSSIISKOI FEDERATSKII [KONST. RF] [CONSTITUTION] art. 19 (Russ.) (“Man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them.”).

⁷³ See RUSSIAN CRIMINAL CODE, *supra* note 8, arts. 111–116. Most neighboring nations have policies to combat domestic violence. Russia is not a member of the EU, but Russia’s close proximity to EU nations allows for comparisons between Russia and peer nations. For instance, twenty-four of the twenty-seven member-states of the EU have National Action Plans to combat “gender based violence.” Rosamund Shreeves & Martina Prpic, *Violence Against Women in the EU: State of Play*, EUR. PARLIAMENTARY RES. SERV. 7 (Nov. 2019), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/644190/EPRS_BRI\(2019\)644190_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/644190/EPRS_BRI(2019)644190_EN.pdf) [<https://perma.cc/59SC-F4H5>]. Most member-states have legislation to combat domestic violence, with thirteen member-states “imposing a higher penalty under general criminal law provisions for violence within the family/household or perpetrated by a current or ex-partner as an aggravated offence” and nine member-states introducing the “specific, named offence of [domestic violence] or violence against a close person into criminal law.” Jolanta Reingarde et al., *Review of the Implementation of the Beijing Platform for Action in the EU Member States: Violence Against Women—Victim Support*, EUR. INST. FOR GENDER EQUAL. 23 (2012), <https://eige.europa.eu/sites/default/files/documents/Violence-against-Women-Victim-Support-Report.pdf> [<https://perma.cc/QH6A-G44P>].

crimes and limits the victim's ability to bring forth a claim.

For over two decades, there have been multiple efforts to enact legislation to protect victims to no avail.⁷⁴ The first attempt was in 1993 by the Women of Russia political party whose effort was discontinued after 40 revisions.⁷⁵ From 2012 to 2016, there was another attempt to pass legislation that would allow for restraining orders, but the bill was never adopted.⁷⁶ In 2016, a section on "domestic battery" was added to the Criminal Code, but was soon removed due to conservative backlash.⁷⁷ The latest attempt was in fall of 2019, when activists submitted a draft to the Russian parliament, but after the upper house of parliament published its own version greatly differing from the original, the bill has since stalled.⁷⁸

Russia's Criminal Code does not distinguish between violence in the home and violence between strangers.⁷⁹ Under the Code, there are three types of assault: grievous bodily harm; medium bodily harm; and minor bodily harm.⁸⁰ Article 111 defines grievous bodily harm as the intentional infliction of a grave injury hazardous to human life or harm involving the loss of sight, speech, hearing, or any organ or the loss of the organ's functions, and is punishable by at least eight years in prison.⁸¹ Article 112 defines assault by medium bodily harm as involving the intentional infliction of injury not hazardous to human life and having caused protracted injury to health or considerable stable loss of general capacity for work by not less than one-third, and is punishable by a term of six months to

⁷⁴ See Alexey Yurtaev, *Inside the Fight over Russia's Domestic Violence Law*, OPENDEMOCRACY (Feb. 17, 2020), <https://www.opendemocracy.net/en/odr/russia-domestic-violence-law/> [<https://perma.cc/9NSL-7PQL>].

⁷⁵ *Id.*

⁷⁶ *Id.*; see also ADVOCs. FOR HUM. RTS., RUSSIAN FEDERATION STAKEHOLDER REPORT FOR THE UNITED NATIONS UNIVERSAL PERIODIC REVIEW. 2 (Oct. 2017), https://www.theadvocatesforhumanrights.org/uploads/the_advocates_russia_dv_upr_final_to_upload.pdf [<https://perma.cc/4VXW-CGPB>].

⁷⁷ See Maria Karnaukh & Robert Coalson, *New Push to Pass Domestic Violence Law Angers Russia's 'Traditional Values' Conservatives*, RADIOFREEEUR. RADIOLIBERTY (Nov. 20, 2019), <https://www.rferl.org/a/russia-domestic-violence-law-traditional-values-conservatives/30283060.html> [<https://perma.cc/HN7Y-TFUF>].

⁷⁸ Yurtaev, *supra* note 74. At the time of this publication, there has not been legislation passed in Russia regarding domestic violence.

⁷⁹ See *Volodina*, App. No. 41261/17, ¶ 50.

⁸⁰ See RUSSIAN CRIMINAL CODE, *supra* note 8, arts. 111–116.

⁸¹ *Id.* art. 111.

five years.⁸² Article 115 defines assault by minor bodily harm as the intentional infliction of light injury which has temporarily damaged health or caused insignificant stable loss of general capacity for work, and is punishable by fine up to 40,000 rubles or the perpetrator's salary for three months, or arrest for up to four months or compulsory labor.⁸³ Domestic violence is often categorized as assault by minor bodily harm,⁸⁴ meaning those convicted face only fines or imprisonment for several months—thus, perpetrators face little punishment for their actions.

Another offense often seen in domestic violence cases, aggravated battery,⁸⁵ is defined in Article 116 as actions committed for disorderly or discriminatory motives which have caused physical pain but do not involve the consequences in Article 115.⁸⁶ Prior to 2017, aggravated battery contained a reference to “close persons,” including partners, but in a 2017 amendment, Parliament dropped this reference.⁸⁷ Now, only those who commit battery for

⁸² *Id.* art. 112.

⁸³ *Id.* art. 115.

⁸⁴ Martin R. Huecker & William Smock, *Domestic Violence*, NAT'L CTR. FOR BIOTECH. INFO., <https://www.ncbi.nlm.nih.gov/books/NBK499891/> [https://perma.cc/2Q52-B792] (last updated Oct. 15, 2019) (“While most events are minor, for example grabbing, shoving, pushing, slapping, and hitting, serious and sometimes fatal injuries do occur.”); *see also Types of Domestic Violence*, ARIZ. COAL. TO END SEXUAL & DOMESTIC VIOLENCE, <https://www.acesdv.org/domestic-violence-graphics/types-of-abuse/> [https://perma.cc/D89A-ER98] (last visited Jan. 13, 2021) (finding that most types of physical abuse include restraining, hitting, shaking, pulling, etc. which would not meet the high bar of gravity or average gravity). But a sizable number of cases in Russia could qualify for as elevated assault and be subject to public prosecution. For example, after Margarita Gracheva divorced her husband for abuse, he drove her to a forest and chopped off both her hands with an axe. *Tunikova*, App. No. 55974/16, ¶¶ 45–49. Domestic violence escalates over time; thus, it is important that victims have recourse early on with effective prosecution to stop further abuse and violence. Amy Thomson, *Can It Really Go That Far: Escalation in Domestic Violence*, BREAK THE SILENCE AGAINST DOMESTIC VIOLENCE (Dec. 22, 2017), <https://breakthesilencedv.org/escalation-domestic-violence/> [https://perma.cc/GY6P-VZRD] (“It may take a while for the abuser to worsen the level violence used against their victim, but it is likely to occur and could include significant physical assault, rape, or strangulation.”).

⁸⁵ *See* Caitlin Mahserjian, Comment, *We're All in This Together: A Global Comparison on Domestic Violence and the Means Necessary to Combat It*, 79 ALB. L. REV. 297, 306 (2016).

⁸⁶ Further, Article 116 covers violent acts committed out of motives based on political, ideological, racial, national or religious hatred or enmity, or based on hatred for a social group. RUSSIAN CRIMINAL CODE, *supra* note 8, art. 116.

⁸⁷ The amendment to Article 116 removed from the list of criminal offenses ones the

racial, religious, political, social, or disorderly motives may be charged with aggravated battery.⁸⁸ Non-aggravated battery, the infliction of violent acts that cause physical pain but not for “ruffian” or discriminatory motives, was de-criminalized in 2016 and classified as an administrative offense punishable by a fine or detention.⁸⁹ Further, first-time, non-aggravated battery offenses among family members are decriminalized, “signaling to abusers that [domestic violence] is a less serious offense[.]”⁹⁰ and, so, perpetrators get a free pass for initial, or infrequent, offenses.⁹¹ With the de-criminalization of non-aggravated battery, perpetrators merely get a slap on the wrist for offenses. Because of the Code’s failure to account for domestic violence, women are left with insufficient protections in the current statutory scheme.

B. Shortcomings of Russia’s Private Prosecution System

Victims are further hindered by Russia’s private and public prosecution system in which some offenses must be litigated by private parties.⁹² Only offenses of assault by grievous and medium bodily harm are liable for public prosecution, meaning, for these offenses, the police take over the entire process; offenses of assault by minor bodily harm and offenses of battery are subject to private or public-private prosecution.⁹³ Victims of domestic violence are

“battery of close persons that resulted in physical pain but did not inflict harm or other consequences[.]” Isajanyan, *supra* note 8, at 3–4.

⁸⁸ RUSSIAN CRIMINAL CODE, *supra* note 8, art. 116.

⁸⁹ Isajanyan, *supra* note 8, at 2–3. КОДЕКС РОССИЙСКОЙ ФЕДЕРАЦИИ ОБ АДМИНИСТРАТИВНЫХ ПРАВОНАРУШЕНИЯХ [KOAP RF] [Code of Administrative Violations], art. 6.1.1 (Russ.) [hereinafter RUSSIAN CODE OF ADMINISTRATIVE OFFENSES]; RUSSIAN CRIMINAL CODE, *supra* note 8, art. 116.1.

⁹⁰ Jacquelyn Kantack, *European Court Slams Russia over Domestic Violence Case*, HUM. RTS. WATCH (Aug. 22, 2019), <https://www.hrw.org/news/2019/08/22/european-court-slams-russia-over-domestic-violence-case> [https://perma.cc/JLB8-YS93]; *see* RUSSIAN CRIMINAL CODE, *supra* note 8, art. 116.1.

⁹¹ *See* Kantack, *supra* note 90.

⁹² *See* УГОЛОВНО-ПРОЦЕССУАЛЬНЫЙ КОДЕКС РОССИЙСКОЙ ФЕДЕРАЦИИ [UPK RF] [Criminal Procedure Code] art. 20(1) (Russ.) [hereinafter RUSSIAN CRIMINAL PROCEDURE CODE].

⁹³ *Id.* art. 20(2) (“[C]riminal cases on crimes envisaged by Articles 115, Part One and 116, Part One of the Criminal Code of the Russian Federation, are seen as criminal cases of private prosecution, are initiated only upon application from the victim or from his legal representative[.]”); *id.* art. 20(3) (providing that criminal cases of public-private prosecution include criminal cases of crimes under Article 116.); *id.* art. 20(5) (providing that criminal cases, with the exception of the criminal cases referred to in parts two and

disproportionately affected because interfamilial violence is often classified as assault by minor bodily harm or battery, and, therefore, only eligible for private prosecution.⁹⁴ When offenses are subject to private prosecution, the onus is on victims to “collect evidence, identify the perpetrator, secure witness testimony and bring charges before a court.”⁹⁵ Private prosecution requires that the victim initiate the proceedings with Russian courts, and if a victim wants legal representation, she must obtain counsel through her own resources.⁹⁶ This places a large burden on victims mentally and financially and is unlike public prosecutions in which it is the authorities who collect evidence and bear the cost.⁹⁷ Alarming, in private prosecution, “the failure of the victim to appear without serious reasons shall entail the termination of the criminal case[.]”⁹⁸ And cases of private prosecution are subject to “reconciliation” in which suits are terminated if the parties reconcile; meaning, no prosecutor will step in—as soon as the victim stops pushing for justice, any avenue of redress has ended.⁹⁹ Such procedural hurdles imposes a hardship on victims, already suffering mentally and physically, to actively pursue a potential lengthy case and see it to the end.

A private prosecutorial system is antithetical to the cyclical nature of domestic violence,¹⁰⁰ and it is not surprising that 90% of private prosecution cases are terminated.¹⁰¹ Often, victims will take action, such as filing a complaint, immediately after the abuse has

three of this article, are considered criminal cases of public prosecution).

⁹⁴ See Huecker & Smock, *supra* note 84.

⁹⁵ Volodina, App. No. 41261/17, ¶ 46.

⁹⁶ See RUSSIAN CRIMINAL PROCEDURE CODE, *supra* note 92, art. 246(3) (“On criminal cases of the private prosecution the charge in the judicial proceedings shall be supported by the victim.”).

⁹⁷ See Kantack, *supra* note 90 (“[Authorities] force victims to seek justice through private prosecution, a process that is both expensive and demanding upon the victim.”).

⁹⁸ RUSSIAN CRIMINAL PROCEDURE CODE, *supra* note 92, art. 249(3).

⁹⁹ *Id.* art. 20(2). Courts are required to explain reconciliation to the parties. *Id.* art. 319(5).

¹⁰⁰ See *Domestic Violence Against Women in the Russian Federation*, ANNA – CTR. FOR THE PREVENTION OF VIOLENCE 5–7 (Oct. 2015), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/RUS/INT_CEDAW_NGO_RUS_21870_E.pdf [<https://perma.cc/7Z52-A6JZ>].

¹⁰¹ *Id.* at 6. (“[T]he vast majority of cases of private complaint (90%) are terminated for two reasons: (1) The failure to fulfil the court’s requirements to resolve the shortcomings of the complaint; (2) The reconciliation of the parties.”).

occurred.¹⁰² However, as time passes, the victim will “remove the complaint” for various reasons, leaving the perpetrator facing no consequences.¹⁰³ Victims of domestic violence are often hesitant to face their abusers in court, will recant statements, or even return to their abusers.¹⁰⁴ Some recant out of fear for their or their children’s safety.¹⁰⁵ Victims may also be financially dependent on their abusers and feel returning to them is the only option.¹⁰⁶ Victims often return to partners who have repented for their former behavior—this “honeymoon phase” is an expected component of the domestic violence cycle.¹⁰⁷ Because victims struggle to bring their abuser to justice for emotional, physical, and financial reasons, private prosecution is the wrong way to ensure victims are protected and abusers are prosecuted.

In its current state, the Sisyphean task placed on victims to seek justice in Russia signals a structure intentionally designed for the victim to fail.¹⁰⁸ Significant burden is placed on the victim to seek justice in the private prosecutorial scheme, and even when a victim does follow procedures, Russian law is very forgiving for both non-lethal violence and first-time offenses,¹⁰⁹ granting perpetrators

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *See id.*

¹⁰⁵ *Why Do Victims Stay?*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE, <https://ncadv.org/why-do-victims-stay> [<https://perma.cc/2NG5-LQ4B>] (last visited Jan. 26, 2020); *see also* Rachel Louis Snyder, *We Prosecute Murder Without the Victim’s Help. Why Not Domestic Violence?*, N.Y. TIMES (May 4, 2019), <https://www.nytimes.com/2019/05/04/opinion/sunday/domestic-violence-recanting-crawford.html> [<https://perma.cc/YF5D-E6M2>] (“Domestic violence victims recant their testimony as much as 70 percent of the time . . . [Victims] do so to protect themselves against their abusers’ retaliation when they feel that authorities cannot or will not help.”).

¹⁰⁶ *Why Do Victims Stay?*, *supra* note 105.

¹⁰⁷ Jennifer Focht, *The Cycle of Domestic Violence*, NAT’L CTR. FOR HEALTH RES., <http://www.center4research.org/cycle-domestic-violence/> [<https://perma.cc/46ZX-PA2L>] (last visited Jan. 26, 2020) (explaining the cycle involves (1) the tension building phase; (2) the abusive incident; and (3) the honeymoon phase, during which “the abuser may apologize, buy gifts, or be extra affectionate to ‘make up’ for the abuse. Many will promise to change, promise to stop abusing, or promise that it will never happen again. These assurances are intended to persuade the survivor to stay in the relationship.”).

¹⁰⁸ Snyder, *supra* note 105.

¹⁰⁹ *See Domestic Violence Against Women in the Russian Federation*, *supra* note 100, at 5-7 (explaining that there is a heavy burden on women in domestic violence cases); *see also* Kantack, *supra* note 90; RUSSIAN CRIMINAL CODE, *supra* note 9, art. 116.1 (showing that first time and non-lethal offenses are lightly punished).

freedom to act with impunity.¹¹⁰ Because of the limitations of the Russian Criminal Code and the shortcomings of private prosecution, the Russian criminal system lacks sufficient protections for victims of domestic violence.

IV. A Culture of Acceptance

A. A Lack of Knowledge Regarding Domestic Violence Statistics in Russia

The extent of domestic violence in Russia remains unknown as the government “does not maintain centralized, disaggregated statistics[,]” but even modest estimates illustrate its ubiquity—sustaining a culture of acceptance of domestic violence.¹¹¹ Exacerbating this insufficiency is the fact that partner violence is not an independent legal offense which would enable better tracking of incidents.¹¹² Despite these barriers to information, non-governmental studies estimate that 36,000 women suffer physical violence daily with 14,000 women killed by family members each year.¹¹³

Actual instances of domestic violence are likely higher than current estimates given that domestic violence is a universally under-reported crime.¹¹⁴ Countries with available data report that, “only 40 per cent of [] women who experience violence seek help of any sort[.]”¹¹⁵ Among women who do come forward, most look to family and friends for support, with very few turning to formal institutions, such as police and health services, for redress.¹¹⁶ Most victims remain silent due to “fear of reprisals, economic and

¹¹⁰ See Higgins, *supra* note 13. Ms. Volodina’s attorney commented upon the decriminalization of battery, noting that “[i]n Russia, [perpetrators] get one free beating a year.” *Id.*

¹¹¹ Isajanyan, *supra* note 8, at 1–2; see also Amnesty Int’l, *Russian Federation: Briefing to the Committee on the Elimination of Discrimination Against Women* 12, AI Index EUR 46/022/2010 (July 2010) (“[T]he true scale of domestic violence against women in Russia remains unknown.”); SUNDSTROM ET AL., *supra* note 71, at 145–46.

¹¹² See *supra* Part II.B, III.

¹¹³ Isajanyan, *supra* note 8, at 2.

¹¹⁴ See *Facts and Figures: Ending Violence Against Women*, UN WOMEN, <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures> [<https://perma.cc/T4ZM-XG7Z>] (last updated Nov. 2020).

¹¹⁵ *Id.*

¹¹⁶ *Id.*

psychological dependence, anticipation that the police will not take the charges seriously and viewing the assault as a private matter.”¹¹⁷ A 2014-15 survey found that over one-half of respondents in Russia had either experienced domestic violence or knew someone who had.¹¹⁸ However, this estimate is likely skewed low, considering that 60 to 70 percent of women who experience domestic violence in Russia make no report.¹¹⁹ Even with conservative estimates, domestic violence is an egregious and pervasive problem in Russia.

B. Partner Violence as the Norm in Russian Culture

1. Institutional Bias

Compared to other victims of domestic violence across the globe, Russian women are even less likely to seek help because of institutional bias and a culture unsympathetic to victims.¹²⁰ As evidenced by Volodina’s case, authorities rarely provide avenues of redress.¹²¹ One attorney described the “typical police attitude as [one] requiring homicidal-level violence to secure their attention, suggesting that police intonate ‘[i]f there is a dead body, we will come,’ or ‘[c]all us if you’re murdered.’”¹²² Even when authorities act, punishments are mild, including “modest fines from 5,000 to 30,000 rubles, 60 to 120 hours of compulsory work or, rarely, 10—15 days of confinement.”¹²³ Such dismissive attitudes and lack of

¹¹⁷ U.N. OFF. ON DRUGS & CRIME, GLOBAL STUDY ON HOMICIDE: GENDER-RELATED KILLING OF WOMEN AND GIRLS 42 (Nov. 2018), https://www.unodc.org/documents/data-and-analysis/GSH2018/GSH18_Gender-related_killing_of_women_and_girls.pdf [<https://perma.cc/5HU8-YELQ>]. According to Phumzile Mlambo-Ngcuka, Executive Director of U.N. Women, “[w]e still do not know the true extent of violence against women, as the fear of reprisals, impact of not being believed, and the stigma borne by the survivor — not the perpetrator — have silenced the voices of millions of survivors of violence and masked the true extent of women’s continued horrific experiences[.]” Deanna Paul, *U.N. Finds the Deadliest Place for Women Is Their Home*, WASH. POST, (Nov. 26, 2018), <https://www.washingtonpost.com/world/2018/11/26/un-finds-deadliest-place-women-is-their-home/> [<https://perma.cc/LE94-E9F6>].

¹¹⁸ Higgins, *supra* note 13.

¹¹⁹ One reason women may not report violence is the lack of redress. Only 3 percent of such cases go to trial. Gorbunova, *supra* note 7.

¹²⁰ See generally Isajanyan, *supra* note 8 (describing the active discouragement of reporting and lack of legal structure to protect victims of domestic violence).

¹²¹ See *supra* Part II.B.

¹²² ADVOCS. OF HUM. RTS., *supra* note 76, at 5.

¹²³ *Id.* In U.S. dollars, this range is approximately \$72.00 to \$438.00 as of June 11, 2020. *Currency Converter*, BUS. INSIDER, <https://markets.businessinsider.com/currency->

enforcement discourage victims from reporting crimes.¹²⁴ For instance, 72 percent of women who called the national help line never sought aid from police, and of those who did call, 80 percent were unsatisfied with police response.¹²⁵ The institutional bias against victims present in Russia law enforcement benefits perpetrators and promotes domestic violence as a norm.

This bias is present even in the upper echelon of the Russian government. President Vladimir Putin, who is not likely to relinquish power anytime soon, promotes a conservative culture sympathetic to perpetrators.¹²⁶ In 2017, President Putin proudly signed into law the decriminalization of domestic abuse by making aggravated battery among “close persons” an administrative offense.¹²⁷ Putin has been president since 2012 and the de facto leader of Russia since 2000.¹²⁸ In this time, Putin has taken over much of the Russia government, directly and indirectly.¹²⁹ Parliament rubber-stamps all of his proposals¹³⁰ and the Kremlin controls Russian television.¹³¹ In early 2020, the entire government resigned, with the Prime Minister being replaced by Mikhail V. Mishustin, an obscure tax chief who is seen as a “technocratic

converter/russian-ruble_united-states-dollar [https://perma.cc/3YRW-WQFT] (last visited June 11, 2020).

¹²⁴ See Gorbunova, *supra* note 7.

¹²⁵ *Domestic Violence Against Women in the Russian Federation*, *supra* note 100, at 3.

¹²⁶ Feliz Solomon, *Vladimir Putin Just Signed Off on the Partial Decriminalization of Domestic Abuse in Russia*, TIME (Feb. 8, 2017), <https://time.com/4663532/russia-putin-decriminalize-domestic-abuse/> [https://perma.cc/F6NK-DZC8].

¹²⁷ *Id.* See *supra* Part III.A.

¹²⁸ Masha Gessen, *The Willful Ambiguity of Putin's Latest Power Grab*, NEW YORKER (Jan. 16, 2020), <https://www.newyorker.com/news/our-columnists/the-willful-ambiguity-of-putins-latest-power-grab> [https://perma.cc/8M5M-UDQ6].

¹²⁹ *Id.* (“Putin wields such power over all aspects of Russian government that consolidation is hardly possible; Russian courts take dictation from the President and bend the law any way he wants—plus, the parliament is always ready to rubber-stamp any law into existence at a moment’s notice[.]”).

¹³⁰ *Id.*

¹³¹ See generally Daria Litvinova, *Human Wrongs: How State-Backed Media Helped the Kremlin Weaponise Social Conservatism*, REUTERS INST. (July 2018), <https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2018-10/Daria%20Litvinova%20Journalist%20Fellow%20paper.pdf> [https://perma.cc/VRN7-AM8C] (providing an overview of how the Kremlin gained control over Russian media).

placeholder” to allow Putin to continue holding power.¹³² Putin has also introduced constitutional reforms, approved by Parliament,¹³³ and ratified by voters, allowing him to remain in power until 2036.¹³⁴ Thus, Putin will likely be leader for life.¹³⁵ With a president who does not support domestic violence reform, has full authority to pass legislation at will, and is likely to be in power indefinitely, it will be hard to effectuate change that advances protection for domestic violence victims.

This widespread bias against victims has led to few institutional protections.¹³⁶ No national programs combatting domestic violence exist and there is a shortage of crisis centers.¹³⁷ In fact, it is international non-governmental organizations (“NGOs”) that provide the most programs and on-the-ground protection.¹³⁸ But even NGOs are hampered in their efforts due to the Foreign Agents Law, passed in 2012, which requires NGOs to register as foreign agents if they receive foreign funding.¹³⁹ This designation “is tantamount to being labeled spy or traitor[,]”¹⁴⁰ so many NGOs

¹³² Polina Ivanova & Katya Golubkova, *‘Technocratic Placeholder’? Putin Picks Low-Profile Tax Chief as Russian PM*, REUTERS (Jan. 15, 2020), <https://www.reuters.com/article/us-russia-mishustin/technocratic-placeholder-putin-picks-low-profile-tax-chief-as-russian-pm-idUSKBN1ZE2OO> [<https://perma.cc/F9A9-WNEJ>]; see also Anton Troianovski, *Big Changes? Or Maybe Not. Putin’s Plans Keep Russia Guessing*, N.Y. TIMES, (Jan. 21, 2020), <https://www.nytimes.com/2020/01/21/world/europe/putin-russia-changes.html> [<https://perma.cc/B645-WQSW>].

¹³³ Anton Troianovski, *Putin Endorses Brazen Remedy to Extend His Rule, Possibly for Life*, N.Y. TIMES (Mar. 10, 2020), <https://www.nytimes.com/2020/03/10/world/europe/putin-president-russia.html> [<https://perma.cc/Z4AE-R7KS>].

¹³⁴ Andrew Higgins, *The Theatrical Method in Putin’s Vote Madness*, N.Y. TIMES (July 1, 2020), <https://www.nytimes.com/2020/07/01/world/europe/putin-referendum-vote-russia.html> [<https://perma.cc/TY6A-TS9S>].

¹³⁵ *Id.* See Andrew Higgins, *Russia’s Highest Court Opens Way for Putin to Rule Until 2036*, N.Y. TIMES (Mar. 16, 2020), <https://www.nytimes.com/2020/03/16/world/europe/russia-putin-president-for-life.html> [<https://perma.cc/ET9X-SEDU>].

¹³⁶ See *supra* Part III.

¹³⁷ ADVOCS. FOR HUM. RTS., *supra* note 76, at 6.

¹³⁸ *Id.* (“Moscow has approximately 150 shelter spaces to serve a city of 12 million people . . . Nationally, at best, existing shelters provide only a few hundred beds in a country of 140 million . . . Approximately 20 NGOs throughout the country also operate a small number of crisis centers and shelters.”).

¹³⁹ *Id.*; see also *Russia: Government vs. Rights Groups: The Battle Chronicle*, HUM. RTS. WATCH (June 18, 2018), <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle> [<https://perma.cc/2ZUU-HE25>].

¹⁴⁰ ADVOCS. FOR HUM. RTS., *supra* note 76, at 6.

have closed their doors after this designation from lack of support.¹⁴¹

A lack of governmental support means avenues of change and awareness, such as protesting and the arts, are limited. All public protests require government authorization and “anyone caught in an unsanctioned protest more than once in a six-month period risks being fined anywhere between 600,000 to one million rubles . . . or up to [f]ive [sic] years of forced labor or prison.”¹⁴² Furthermore, there is an attack on the arts in Russia deemed *avant garde*. A ballet that featured nudity and a homosexual relationship was cancelled two days before its premiere.¹⁴³ While the official statement cited production issues, rumors exist that the company received a call from a Kremlin official or Orthodox cleric, prompting the cancellation.¹⁴⁴ With a government refusing to protect some of the most vulnerable members of society, it is possible this attitude has seeped down to the citizenry who also accept domestic violence as the norm.

2. *Rise of Conservatism*

Beyond institutional bias, a cultural issue exists concerning opinions of domestic violence.¹⁴⁵ A resurgence of conservative values in Russia has cemented men as the patriarchal head of the household.¹⁴⁶ And the rise of President Putin has pushed masculine

¹⁴¹ *Id.*; *Russia: Government vs. Rights Groups: The Battle Chronicle*, *supra* note 139 (“To date, Russia’s Justice Ministry has designated 158 groups as ‘foreign agents,’ courts have levied staggering fines on many groups for failing to comply with the law, and about 30 groups have shut down rather than wear the ‘foreign agent’ label.”).

¹⁴² The currency conversion is approximately \$17,124 to \$28,540. Madeline Roache, *Russia’s Version of #MeToo Has Struggled to Take Off — Until Now*, TIME, <https://time.com/5636107/metoo-russia-womens-rights/> [<https://perma.cc/S5D2-PZRX>] (last updated Aug. 2, 2019). A fine for protesting is astronomically larger than that of a fine for the administrative offence of battery. For the entire statutory scheme regarding protesting, see RUSSIAN CODE OF ADMINISTRATIVE VIOLATIONS, *supra* note 89, art. 20.

¹⁴³ Joshua Yaffa, *‘They Will Destroy You’: In Putin’s Russia, How Far Can an Artist Go?*, GUARDIAN (Jan. 17, 2020), <https://www.theguardian.com/world/2020/jan/17/putin-kirill-serebrennikov-arts-clampdown-russia-bolshoi> [<https://perma.cc/3XK7-XKLZ>].

¹⁴⁴ *Id.*

¹⁴⁵ Higgins, *supra* note 13; *see also* Andrew Stickely et al., *Attitudes Toward Intimate Partner Violence Against Women in Moscow, Russia*, 23 J. FAM. VIOLENCE 447, 447 (2008) (finding in a study that less than half of Russians surveyed thought partner violence against women was a serious problem).

¹⁴⁶ *See* ADVOCS. FOR HUM. RTS., *supra* note 76, at 2. Upon Putin’s re-election in 2012, he has pushed more conservative policies on social issues such as domestic violence, including a law banning gay “propaganda.” Gabriela Baczyńska, *Victims of Domestic*

ideals to the forefront of Russian culture.¹⁴⁷ This movement does not view domestic violence as problematic and is typically against progressive ideas like LGBTQ and women's rights.¹⁴⁸ The Russian Orthodox Church, a pillar of the conservative movement,¹⁴⁹ is against feminism; in fact, the head of the Church, Patriarch Kirill, called feminism a "dangerous phenomenon[.]"¹⁵⁰ Russia's conservative institutions also support familial violence to keep their values dominant; for instance, the Parents' Meeting, "promote[s] physical punishment in a family as a cultural tradition."¹⁵¹ Conservative proponents in Russian government and society perpetuate the belief that it is not only acceptable, but expected, that a husband will beat his wife to ensure his authority.¹⁵²

Conservatives have been able to effectively organize and push their agendas to maintain their support of domestic violence. Currently, more than 180 "traditional values" organizations exist in Russia.¹⁵³ These groups sometimes use acts of terror to promote their agenda; in 2017, groups mounted attacks against the film, *Matilda*, which described the affair of Crown Prince Nicholas, later Tsar Nicholas II, and a Polish ballerina.¹⁵⁴ Assailants, angered by

Violence Face Uphill Battle for Protection in Russia, REUTERS (Aug. 20, 2013), <https://www.reuters.com/article/us-russia-women-violence/victims-of-domestic-violence-face-uphill-battle-for-protection-in-russia-idUSBRE97J0CX20130820> [https://perma.cc/5EPN-R5U3].

¹⁴⁷ Oleg Riabov & Tatiana Riabovca, *The Remasculinization of Russia? Gender, Nationalism, and the Legitimation of Power Under Vladimir Putin*, 61 PROBS. OF POST-COMMUNISM 23, 28 (2014). For a discussion on how President Putin uses his masculinity to rule Russia, see generally, Elizabeth A. Wood, *Hypermasculinity as a Scenario of Power*, 18 INT'L FEMINIST J. POL. 329 (2016).

¹⁴⁸ See Riabov & Riabovca, *supra* note 147, at 29.

¹⁴⁹ See generally Kristina Stoeckl, *The Russian Orthodox Church's Conservative Crusade*, 116 CURRENT HIST. 271 (2017) (holding that the Russian Orthodox church is a dominant force in Russian culture that works alongside President Putin and its values are reflected in domestic violence laws and LGBTQ issues).

¹⁵⁰ Roache, *supra* note 142.

¹⁵¹ *Domestic Violence Against Women in the Russian Federation*, *supra* note 100, at 7–8; see also Adams, *supra* note 5, at 67 ("The violence in these societies is often more severe and remains part of the social fabric.").

¹⁵² ADVOCS. FOR HUM. RTS., *supra* note 76, at 5; see also Roache, *supra* note 142.

¹⁵³ See Karnaukh & Coalson, *supra* note 77.

¹⁵⁴ Mumin Shakirov & Robert Coalson, *Matilda Director Urges Russian Government to Respond to Campaign of Threats, Violence*, RADIOFREEEUR. RADIOLIBERTY (Sept. 20, 2017), <https://www.rferl.org/a/russia-matilda-uchitel-campaign-threats-tsar-nicholas/28747047.html> [https://perma.cc/X6US-P8YY].

the negative portrayal of the Tsar who was “canonized as an Orthodox saint in 2000[,]” assaulted the studio with Molotov cocktails, and attempted to ram a car into a cinema screening the film.¹⁵⁵ Conservatives push against reforms they consider “attacks” on Russian lifestyle—Andrei Kormukhin, the leader of Forty Forties, a Russian Orthodox organization, criticized the 2019 draft legislation on domestic violence, asking “[w]hy should our conservative-traditional country—which, according to our leader, has its own, unique civilization—adopt foreign values?”¹⁵⁶ Conservatives find social change like pro-LGBT ballets and protective legislation a “forcible alteration of the basic foundations of Russian society and the destruction of [] traditional family and moral values[,]”¹⁵⁷ and fight to maintain the status quo developed under President Putin.

Even Russian citizens unaffiliated with the conservative movement or the Orthodox church hold traditional values and are likely to hold perpetrators blameless for acts of violence.¹⁵⁸ In 2017, as the media spotlight was focused upon ex-film producer Harvey Weinstein and his repeated sexual assaults of female actresses, the Russian public opinion was split with some blaming the victims.¹⁵⁹ Even among female actresses, opinions were polarized.¹⁶⁰ Actress Lyubov Tolkalina responded to the Weinstein allegations, stating, “If you land a role, does it matter how you got it? How can you blame a man for sexual harassment, isn’t it his meaning of life?”¹⁶¹ Fellow actress Agnia Kuznetsova reiterated the sentiment, stating,

¹⁵⁵ *Id.*

¹⁵⁶ Karnaukh & Coalson, *supra* note 77.

¹⁵⁷ *Id.* (internal quotation marks omitted). At one protest against the 2019 proposed domestic violence bill, protestors distributed pamphlets warning that a bill criminalizing domestic violence would be a slippery slope and lead to Russia “turning into Sodom and Gomorrah and dying, just like Europe.” Samantha Berkhead, *Russia Faces Up to Its Dark Domestic Violence Problem*, MOSCOW TIMES (Dec. 6, 2019), <https://www.themoscowtimes.com/2019/12/06/russia-faces-domestic-violence-a68488> [<https://perma.cc/D4NH-CFAR>] (internal quotations omitted).

¹⁵⁸ See Roache, *supra* note 142 (“According to [Russian family lawyer Mari] Davtyan, the overarching attitudes imply women are to blame for not acting properly.”).

¹⁵⁹ Oleg Yegorov, *‘How Can You Blame a Man for Sexual Harassment?’ Russians React to the Harvey Weinstein Scandal*, RUSS. BEYOND (Oct. 19, 2017), <https://www.rbth.com/arts/326460-harvey-weinstein-russia> [<https://perma.cc/32JM-A2YR>].

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

“These gals got what they wanted[.]”¹⁶²

In contrast to conservative Russians who see domestic violence advocacy as “ideas imported from the West” that erode “traditional norms,” progressive citizens advocating for reform are typically younger.¹⁶³ However, Russia’s population is imbalanced with lower child birth rates and a growing elderly population.¹⁶⁴ By 2050, Russia “is projected to have more seniors than young children”; therefore, with imbalanced demographics, it is difficult for the youth solely to effectuate change.¹⁶⁵

These attitudes mean that when victims do come forward, they face victim blaming by both the police and the public.¹⁶⁶ Darya Ageniy, a nineteen year old who was raped, is currently facing criminal charges for injuring her rapist after she fought back.¹⁶⁷ Authorities also told Ageniy that she should have “called the police while she was being attacked, instead of trying to defend herself.”¹⁶⁸ Similarly, members of the Orthodox Church blame women for violence perpetrated against them.¹⁶⁹ The late Archpriest Vsevolod Chaplin argued that rape victims are to blame due to their “indecent[.]” “provocative” appearances.¹⁷⁰ Even fellow citizens

¹⁶² But Russian director Zhora Kryzhovnikov stood in solidarity with Weinstein’s victims calling this “another battle for the rights of women, which they won[.]” *Id.* (internal quotation marks omitted).

¹⁶³ Higgins, *supra* note 13; see also *Domestic Violence Against Women in the Russian Federation*, *supra* note 100, at 7.

¹⁶⁴ Rakesh Kochhar, *Attitudes About Aging: A Global Perspective*, PEW RES. CTR. (Jan. 30, 2014), <https://www.pewresearch.org/global/2014/01/30/chapter-2-aging-in-the-u-s-and-other-countries-2010-to-2050/> [<https://perma.cc/QP37-VAUW>].

¹⁶⁵ *Id.*

¹⁶⁶ Philippa H. Stewart, *Interview: Giving a Green Light to Abuse in Russia*, HUM. RTS. WATCH (Oct. 25, 2018), <https://www.hrw.org/news/2018/10/25/interview-giving-green-light-abuse-russia> [<https://perma.cc/4S2Y-MWJV>] (“We heard many reports of police being dismissive and sometimes mocking or blaming the woman.”).

¹⁶⁷ Sukhada Tatke, *Outrage in Russia over Murder Charges Against Teenage Victims of Domestic Violence*, EURONEWS, <https://www.euronews.com/2019/07/05/outrage-in-russia-over-murder-charges-against-teenage-victims-of-domestic-violence> [<https://perma.cc/65AN-XEL8>] (last updated July 6, 2019).

¹⁶⁸ *Id.*

¹⁶⁹ Roache, *supra* note 142.

¹⁷⁰ *Id.* The Archpriest passed away unexpectedly in January of 2020. *Russian Archpriest Vsevolod Chaplin Dies at 51*, TASS: RUSS. NEWS AGENCY (Jan. 26, 2020), <https://tass.com/society/1113089> [<https://perma.cc/GF8P-2R9K>].

are quick to blame the victim.¹⁷¹ After one woman shared her story of abuse from her spouse on social media, one user asked, “Why didn’t you just marry a normal guy, instead of an asshole?”¹⁷² The conservative culture which has gripped Russia is not one that is keen on protecting victims of domestic violence; in fact, the goal is to keep families together, regardless of the cost to its members.

V. Future Implications

A. Current Actions in the Russian Legislature

In fall of 2019, shortly after the *Volodina* ruling, activists, legislators, and lawyers developed and submitted a draft law to the Russian parliament addressing domestic violence.¹⁷³ Later that year, Russian Parliament released a draft of their own bill.¹⁷⁴ The Parliament bill acknowledges the existence of domestic violence as a crime and defines it as a “a deliberate act causing or containing the threat of causing physical and (or) mental suffering and (or) property damage[.]”¹⁷⁵ Only spouses, former spouses, persons with a common child, close relatives, and those living together or owning the same property are able to be convicted of domestic violence.¹⁷⁶ The bill also allows protective orders to be issued to stop all contact between the perpetrator and victim;¹⁷⁷ however, this judicial restraining order can only be issued if it is shown the perpetrator has another place to live.¹⁷⁸ Unfortunately, there are no provisions allowing for the criminal prosecution of perpetrators.¹⁷⁹

The bill has faced backlash on both sides.¹⁸⁰ Over 180 conservative organizations have signed an “open letter denouncing

¹⁷¹ See Roache, *supra* note 142.

¹⁷² *Id.*

¹⁷³ *Proposed Russian Domestic Violence Bill Prioritises “Preserving Family” over the Life and Health of Women*, EQUALITY NOW (Dec. 12, 2019), https://www.equalitynow.org/proposed_russian_dv_bill_2019 [<https://perma.cc/U6YY-Q99B>] [hereinafter *Proposed Russian Domestic Violence Bill*]; see also Yurtaev, *supra* note 74.

¹⁷⁴ See generally *Draft Law on the Prevention of Domestic Violence*, *supra* note 16.

¹⁷⁵ *Id.* art. 2.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* art. 24.

¹⁷⁸ *Id.* art. 25.

¹⁷⁹ See generally *id.*

¹⁸⁰ See generally *Proposed Russian Domestic Violence Bill*, *supra* note 173.

the proposed bill” labeling it as an attack on traditional Russian values.¹⁸¹ CitizenGo, a conservative advocacy group, began an online petition with over 35,000 signatures against the bill, framing it as “based on the radical anti-family ideology of feminism[.]”¹⁸² Alternatively, supporters of enacting reform legislation argue the bill fails to (1) criminalize domestic violence, (2) cover all forms of violence, and (3) protect all at risk of domestic violence with its narrow definition of who is protected.¹⁸³ The bill is currently in flux, but with strong public backlash and a history of over 40 domestic violence bills previously quashed in the last two decades, it is a grim outlook for the bill becoming law.¹⁸⁴

B. External Forces of Change

It is possible that external pressures outside of Russia could persuade the government to enact reform. Several avenues of action and their potential for success are discussed below.

1. Treaties

Intergovernmental organizations have not been successful in persuading Russia to make reforms.¹⁸⁵ The Council of Europe, in an attempt to combat interfamilial violence, held the Convention on Preventing and Combating Violence Against Women and Domestic Violence (“Istanbul Convention”) in 2011 which entered into force in 2014.¹⁸⁶ Russia, as a member of the Council, declined to sign or ratify the Istanbul Convention—only one other country, Azerbaijan,

¹⁸¹ See *Мы против принятия Закона о профилактике домашнего насилия!* [*We Are Against the Adoption of the Domestic Violence Prevention Act!*], REGNUM (Oct. 15, 2019), <https://regnum.ru/news/polit/2748248.html> [<https://perma.cc/9RS6-A6BY>].

¹⁸² *Остановим антисемейный закон о “домашнем насилии”!* [*Stop the Anti-Family Law on “Domestic Violence”!*], CITIZENGO (Oct. 23, 2019), <https://www.citizengo.org/ru/fm/174541-ostanovim-antisemeynyy-zakon-o-domashnem-nasilii> [<https://perma.cc/49W2-8X95>].

¹⁸³ See generally *Proposed Russian Domestic Violence Bill*, *supra* note 173.

¹⁸⁴ Karnaukh & Coalson, *supra* note 77.

¹⁸⁵ See Jennifer L. Ulrich, *Confronting Gender-Based Violence with International Instruments: Is a Solution to the Pandemic Within Reach?*, 7 IND. J. GLOB. LEGAL STUD. 629, 645 (2000) (stating that most international treaties are “hindered by enforcement problems”).

¹⁸⁶ See *Historical Background*, COUNCIL EUR., <https://www.coe.int/en/web/istanbul-convention/historical-background> [<https://perma.cc/YR4B-Z4RH>] (last visited Jan. 30, 2020).

has declined to sign.¹⁸⁷

But even treaties to which Russia is a party fail to advance change due to a lack of enforcement measures.¹⁸⁸ Ratifying a treaty promising to give individuals enumerated human rights does not guarantee that a state will follow through with its obligations.¹⁸⁹ For example, Russia is a party to the Convention on the Elimination of All Forms of Discrimination against Women, which is a bill of rights for women enacted by the United Nations.¹⁹⁰ The Committee on the Elimination of All Forms of Discrimination Against Women (“CEDAW”) monitors the implementation of the Convention by collecting reports from member-states on their progress in fulfilling the Convention.¹⁹¹ CEDAW can also issue general recommendations on how member-states can come into compliance with the Convention.¹⁹² Like the ECtHR, individuals can bring complaints against member-states alleging the state has violated the Convention¹⁹³ and the CEDAW committee can issue a quasi-judicial ruling.¹⁹⁴ Per General Recommendation No. 19, CEDAW considers gender violence a form of discrimination and places on its members a positive obligation to “act with *due diligence* to prevent violations of rights or to investigate and punish acts of violence, and

¹⁸⁷ See *Chart of Signatures and Ratifications of Treaty 210*, COUNCIL EUR., <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures?desktop=true> [https://perma.cc/NT8C-JCPZ] (last updated Oct. 31, 2020).

¹⁸⁸ See Ingrid Wuerth, *International Law in the Post-Human Rights Era*, 96 TEX. L. REV. 279, 344 (2017).

¹⁸⁹ See *id.* at 364 (“The ratification of certain treaties has had modest positive effects on human rights practices of some countries, while ratification of others has not, and some studies even show a correlation between the ratification of certain human rights treaties and more human rights violations.”).

¹⁹⁰ CEDAW General Recommendation No. 19, *supra* note 10, ¶ 14.

¹⁹¹ *Introduction of the Committee on the Elimination of All Forms of Discrimination Against Women*, OHCHR, <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Introduction.aspx> [https://perma.cc/H8WJ-ZCRG] (last visited Oct. 31, 2020).

¹⁹² *Id.*

¹⁹³ G.A. Res. 54/4, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, art. 2 (Oct. 15, 1999) [hereinafter *Optional Protocol*].

¹⁹⁴ *Note on the Different Procedures Within the UN System Dealing with Women’s Human Rights Violations*, OHCHR, <https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Differentproceduresdealingwithwomen.aspx> [https://perma.cc/P22P-LXNN] (last visited Nov. 1, 2020).

for providing compensation.”¹⁹⁵

In 2019, the CEDAW Committee ruled in three cases that Russia failed the due diligence standard to protect victims of domestic violence.¹⁹⁶ These cases were brought by women who had experienced partner violence¹⁹⁷ with little to no assistance from Russian authorities,¹⁹⁸ and each alleged a violation of General Recommendation No. 19.¹⁹⁹ The CEDAW Committee found Russia had failed to implement the Convention,²⁰⁰ required Russia to financially compensate the women,²⁰¹ recommended Russia criminalize gender-based violence, provide adequate investigation of domestic violence, give free legal counsel to victims, develop adequate training for authorities, etc.²⁰² But Russia has little reason to comply with these rulings as the Committee has no power to sanction member-states who violate the Convention.²⁰³ In fact,

¹⁹⁵ CEDAW General Recommendation No. 19, *supra* note 10, ¶ 9 (emphasis added).

¹⁹⁶ CEDAW, Views Adopted by the Committee Under Article 7 (3) of the Optional Protocol, Concerning Comm. No. 65/2014 on Its Seventy-Second Session, U.N. Doc. C/72/D/65/2014 (Apr. 8, 2019) [hereinafter *S.T. v. Russia*]; CEDAW, Views Adopted by the Committee Under Article 7 (3) of the Optional Protocol, Concerning Comm. No. 100/2016 on Its Seventy-Third Session, U.N. Doc. C/73/D/100/2016 [hereinafter *X. & Y. v. Russia*].

¹⁹⁷ *S.T. v. Russia*, *supra* note 196, ¶¶ 2.1–2.9; *X. & Y. v. Russia*, *supra* note 196, ¶¶ 2.1–2.11, 2.18–2.26.

¹⁹⁸ *S.T. v. Russia*, *supra* note 196, ¶¶ 2.10–2.22; *X. & Y. v. Russia*, *supra* note 196, ¶¶ 2.11–2.17, 2.26–2.30.

¹⁹⁹ *S.T. v. Russia*, *supra* note 196, ¶¶ 3.2 n.3; *X. & Y. v. Russia*, *supra* note 196, ¶¶ 3.1–3.3.

²⁰⁰ *S.T. v. Russia*, *supra* note 196, ¶ 10; *X. & Y. v. Russia*, *supra* note 196, ¶¶ 9.4–9.8.

²⁰¹ *S.T. v. Russia*, *supra* note 196, ¶ 11(a); *X. & Y. v. Russia*, *supra* note 196, ¶ 11(a)(ii).

²⁰² *S.T. v. Russia*, *supra* note 196, ¶ 11(b); *X. & Y. v. Russia*, *supra* note 196, ¶ 11(b).

²⁰³ Vedna Jivan & Christine Forster, *Challenging Conventions: In Pursuit of Greater Legislative Compliance with CEDAW in the Pacific*, 10 MELB. J. INT’L L., 655, 688 (2009). The Committee has faced criticism in that it “is not truly an enforcement mechanism, but rather a monitoring body lacking enforcement powers” which is a “characteristic that severely undermines its ability to facilitate and improve women’s rights.” *Id.* at 688–89. Compliance is primarily measured in member-state self-reports on their progress implementing the treaty. Neil Englehart & Melissa K. Miller, *The CEDAW Effect: International Law’s Impact on Women’s Rights*, 13 J. HUM. RTS., 22, 24–31 (2014) (finding that CEDAW has a modest impact on women’s social rights after ratification); Ulrich, *supra* note 185, at 644–46. *See generally* Optional Protocol, *supra* note 193 (providing no sanctions or consequences for member states failing to follow the CEDAW Committee’s recommendations).

Russia has yet to take steps to come into compliance with their positive obligations under the Convention and with no consequences for non-compliance, it does not appear the ratification of a treaty will push Russia to make changes to its current domestic violence framework.²⁰⁴

2. *Further ECtHR Cases*

While many peer nations have developed reforms to protect victims, Russia has yet to partake,²⁰⁵ but as international attention to the problem mounts, Russia may be pressured to take action.²⁰⁶ Four additional cases like Volodina's are pending before the ECtHR.²⁰⁷ In 2016, Natalya Tunikova filed a suit after a Justice of the Peace dismissed her private prosecution appeal against her abuser for being 16 minutes late to the hearing.²⁰⁸ Ms. Tunikova was then convicted of grievous bodily harm for stabbing her abuser in an attempt to defend herself from being thrown off the balcony.²⁰⁹ Elena Gershman filed suit in 2017 after her spouse was acquitted of assault and police refused to institute criminal proceedings.²¹⁰ Irina Petrakova petitioned the ECtHR when authorities refused to file charges against her partner because of the 2017 reclassification of battery among family members as an administrative offense.²¹¹ Lastly, in 2019, Margarita Gracheva filed suit because after repeated attempts to get help from authorities went unanswered, her former partner chopped her hands off, and after this, she was unable to bring negligence claims against the inspector who refused to help her.²¹²

Currently, these are considered "communicated cases."²¹³ A

²⁰⁴ See Wuerth, *supra* note 188, at 298 ("[W]idespread violations of human rights law may be a symbol of unaccountability[.]").

²⁰⁵ See sources cited *supra* note 73.

²⁰⁶ See Gorbunova, *supra* note 7.

²⁰⁷ See generally *Tunikova*, App. No. 55974/16.

²⁰⁸ *Id.* ¶ 9.

²⁰⁹ *Id.* ¶¶ 4–5, 10.

²¹⁰ *Id.* ¶¶ 16–19.

²¹¹ *Id.* ¶¶ 33–35.

²¹² *Id.* ¶¶ 45–49. Authorities decided there was no causal link between the officer's actions and the assault because the inspector and the assailant gave evidence the assailant would have committed the assault regardless. *Id.* ¶ 49.

²¹³ See *Tunikova*, App. No. 55974/16, ¶ 49; see also Antoine Buyse, *Updates on Communicated Cases*, ECHR BLOG (May 12, 2010),

communicated case means that the ECtHR has received the application from a party making a claim against a state and wants to give an opportunity for the state “to react.”²¹⁴ The Court sends to the state the “application, the relevant documents, a statement of facts made by the registry, and a series of questions and issues [] to address.”²¹⁵ After the state reacts, the applicant can then respond.²¹⁶ While *Volodina v. Russia* has been adjudicated,²¹⁷ these cases are currently awaiting a response from Russia.²¹⁸ On June 28, 2019, the ECtHR certified three questions to the parties in each case—the women and Russia—asking their opinion on whether (1) Russian authorities “discharge[d] their obligation to protect the [women] against ill treatment” in violation of the European Convention of Human Rights; (2) the Russian government violated Article 14 of the Convention by refusing to recognize the extent of the problem of domestic violence and failing to take measures to protect victims; and (3) there is an “underlying systemic problem or a structural deficiency” in Russia to combat the issue.²¹⁹

The *Volodina* case included similar claims that authorities failed to act;²²⁰ thus, it can be inferred that Russia may face analogous adverse rulings from the same court. But even if all the cases pending before the ECtHR resulted in monetary damages, this alone would be insufficient to invoke change in Russia. The ECtHR awarded Ms. Volodina 20,000 euros in her case against Russia, equivalent to \$22,500.²²¹ If similar judgments were awarded in the other cases, Russia would be paying just over \$100,000, arguably not enough to pressure the nation to institute effective reforms to protect victims.²²²

<http://echrblog.blogspot.com/2010/05/updates-on-communicated-cases.html>
[<https://perma.cc/D878-BP53>].

²¹⁴ Buyse, *supra* note 213.

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ See generally *Volodina*, App. No. 41261/17 (detailing the facts, relevant international material and merits of the case).

²¹⁸ See generally *Tunikova*, App. No. 55974/16.

²¹⁹ *Id.* Questions to the Parties ¶ 3

²²⁰ See *supra* Part II.B.

²²¹ Higgins, *supra* note 13.

²²² Russia’s Gross Domestic Product [GDP] in 2019 was \$1,689,500,000,000 and has grown since 2017; thus, ECtHR rulings would be insufficient to effectuate change. *The World Bank in Russia*, WORLD BANK, <https://www.worldbank.org/>

3. *The Pilot-Judgment Procedure*

Alternatively, the ECtHR could invoke the Pilot-Judgment Procedure against Russia to force the nation to act.²²³ When the Court must make rulings on similar cases, the ECtHR can invoke the Pilot-Judgment Procedure to reach “determinations about a systematic problem and instruct[] the government to adopt policy and legal changes to prevent similar violations in the future.”²²⁴ Thus, the ECtHR could force Russia to change its policies or face consequences for ignoring the judiciary.²²⁵ The most likely solution would be to compel Russia to adopt specific legislation and a framework for addressing domestic violence.²²⁶ These new statutes addressing domestic violence should criminalize domestic violence and require public prosecution—placing the burden on the state to initiate, investigate, and prosecute perpetrators; further, victims should be able to be granted immediate restraining orders to be protected from their assailants.²²⁷ Additionally, the ECtHR could demand domestic violence training for law enforcement, social workers, and others who interact with victims.²²⁸

en/country/russia/overview [https://perma.cc/UM5Z-26AN] (last visited June 19, 2020).

²²³ See EUR. CT. HUM. RTS., THE PILOT-JUDGMENT PROCEDURE 1 (2009), https://www.echr.coe.int/Documents/Pilot_judgment_procedure_ENG.pdf [https://perma.cc/QP9Y-3ASD] (detailing how the Pilot-Judgment Procedure is a “means of dealing with large groups of identical cases that derive from the same underlying problem.”). For general information on the Pilot-Judgment Procedure, see generally, DOMINIK HAIDER, PILOT-JUDGMENT PROCEDURE OF THE EUROPEAN COURT OF HUMAN RIGHTS (Leiden Boston 2013) (describing the procedure as a means for dealing with groups of cases that arise out of the same underlying problem).

²²⁴ Kantack, *supra* note 90. According to the ECHR, using the Pilot-Judgment Procedure can be effective where “there are a large number of applications concerning the same problem, applicants will obtain redress more speedily if an effective remedy is established at national level than if their cases are processed on an individual basis[.]” EUR. CT. HUM. RTS., *supra* note 223, at 2.

²²⁵ See Kantack, *supra* note 90.

²²⁶ *Id.*; see Shreeves & Prpic, *supra* note 73 (discussing what neighboring EU nations have done to combat domestic violence). The *Volodina* ruling also recommended that Russia enact specific legislation. *Volodina*, App. No. 41261/17, ¶ 132. In 2019, CEDAW ordered that Russia “revise its legislation . . . ensuring, in particular, that all acts of gender-based violence, including those in the family sphere, are criminalized and made punishable by appropriate penalties and that legal instruments such as restraining orders and orders of protection are legally available to victims[.]” *S.T. v. Russia*, *supra* note 196, ¶ 11.

²²⁷ See ADVOCS. OF HUM. RTS., *supra* note 76, at 6–7.

²²⁸ See *id.* at 7. It is also recommended that Russia take other steps including eliminating reconciliation, ensuring thorough investigations, free legal representation to

However, as the Pilot-Judgment Procedure has had mixed success, it cannot be relied upon to make systemic changes in Russia.²²⁹ The first use of the procedure was in Poland's "Bug River" cases²³⁰ which dealt with reparation of property rights after residents were forced to abandon their properties after Poland's eastern border was re-drawn post-World War II.²³¹ It is considered successful because the procedure resulted in Poland creating new legislation, and establishing a system of reparations to those displaced, thereby fixing the systemic issue.²³² But the procedure is not always effective, evidenced by cases like *Ivanov v. Ukraine*,²³³ which dealt with Ukraine's failure to comply with the decision of domestic courts regarding retirement benefits for veterans of the nation's military.²³⁴ After the case went to the ECtHR, the Court, using its powers under the Pilot-Judgment Procedure, "imposed a deadline of one year [against Ukraine] for the implementation of remedial measures, which it subsequently extended by six months . . . because no settlement had been proposed in about 1,000 communicated cases" by Ukraine to settle their debts to the veterans.²³⁵ "[T]he Court [then] resumed the examination of the adjourned applications" and delivered similar judgments, awarding pecuniary damages to over 1,000 cases.²³⁶ But because Ukraine failed to act and award financial relief to the veterans, the ECtHR continued reviewing further cases.²³⁷ As of 2017, Ukraine remained unwilling to provide financial relief with over 14,430 cases like

domestic violence victims, a national education program for the public at large, a system for data collection of domestic violence statistics, more infrastructure including shelters and hotlines, and cooperation with NGOs. *Id.*

²²⁹ See e.g. *Ivanov v. Ukraine*, App. No. 40450/04, Eur. Ct. H.R. (2009).

²³⁰ *Broniowski v. Poland*, App. No. 31443/96 Eur. Ct. H.R., Judgment (2004).

²³¹ *Id.* ¶¶ 10–12.

²³² Execution of the Judgments of the European Court of Human Rights, App. No. 31443/96 Eur. Ct. H.R., Final Resolution, ¶ 2 (2009); EUR. CT. HUM. RTS., *supra* note 223. See generally Dilek Kurban, *Forsaking Individual Justice: The Implications of the European Court of Human Rights' Pilot Judgment Procedure for Victims of Gross and Systemic Violations*, 16 HUM. RTS. L. REV. 731 (2016).

²³³ *Ivanov*, App. No. 40450/04.

²³⁴ *Id.* ¶¶ 8–20.

²³⁵ Lize R. Glas, *The Functioning of the Pilot-Judgment Procedure of the European Court of Human Rights in Practice*, 34 NETH. Q. HUM. RTS. 41, 62 (2017).

²³⁶ *Id.*

²³⁷ *Id.*

Ivanov's still pending, so the Court, for the first time, placed the cases within the purview of the Council of Europe's Committee of Ministers.²³⁸ In June of 2020, more than a decade after the first judgment against Ukraine, the Committee and Ukraine's Ministry of Justice met to begin discussing how Ukraine would comply with the Court's demands under the Pilot-Judgment Procedure.²³⁹ The long length of time as well as lack of clear sanctions highlight the shortcomings of the Pilot-Judgment Procedure when countries refuse to execute judgments of the ECtHR.²⁴⁰

If the Pilot-Judgment Procedure was initiated, Russia could follow the lead of Poland and make the requisite changes.²⁴¹ However, Russia could, alternatively, allow the adverse judgments from the ECtHR to pile up with no consequences other than engaging in talks with the Committee of Ministers, possibly years later. Such delays would not help the thousands of victims who experience violence daily. Therefore, the Pilot-Judgment Procedure cannot be the only tool relied on for change.

4. *Backlash as Pressure for Reform*

As opposed to other external factors, the growing national and international attention to domestic violence in Russia could bring about reform. "Naming and shaming" nations for their human rights abuses can lead to change.²⁴² For instance, nations that lack

²³⁸ Press Release, European Court of Human Rights, Strike-Out and Transmission to the Committee of Ministers of More Than 12,000 Ukrainian Cases, ECHR 307 (2017) (Oct. 12, 2017), <http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-5881734-7499812&filename=Grand%20Chamber%20Judgment%20Burmych%20and%20Others%20v.%20Ukraine%20-%20strike-out%20and%20transmission%20to%20the%20Committee%20of%20Ministers.pdf> [<https://perma.cc/UKZ8-DE7F>].

²³⁹ Public Discussion "Current Status of the Execution of Judgments of the European Court of Human Rights "Yurii Nikolaevich Ivanov v. Ukraine" and "Burmych and Others v. Ukraine," COUNCIL EUR. (June 12, 2020), <https://www.coe.int/en/web/kyiv/-/public-discussion-current-status-of-the-execution-of-judgments-of-the-european-court-of-human-rights-yurii-nikolaevich-ivanov-v-ukraine-and-burmych-an> [<https://perma.cc/8UFK-TT3W>].

²⁴⁰ See *id.*

²⁴¹ See EUR. CT. HUM. RTS., *supra* note 223.

²⁴² Cullen Hendrix & Wendy Wong, *When Is the Pen Truly Mighty? Regime Type and the Efficacy of Naming and Shaming in Curbing Human Rights Abuses*, 43 BRIT. J. POL. SCI., 651 (2013) (finding that shaming is ineffective in democracies but effective at bringing about change in autocracies); Emilie M. Hafner-Burton, *Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem*, 62 INT'L ORG. 689, 707 (2008) ("Governments put in the global spotlight for violations often adopt better

a free press or significant political opposition are particularly susceptible to international shaming and are more likely to make reforms because “international reporting has a much greater potential to alter public perceptions of [violative] behavior[.]”²⁴³ The #MeToo movement that has sparked much dialogue regarding harassment and violence against women worldwide²⁴⁴ facilitated the ousting of perpetrators in positions of power²⁴⁵ and created systematic reforms worldwide.²⁴⁶ Activists in Russia also had their own crusade in the spirit of #MeToo in which social media was flooded with personal stories of domestic violence.²⁴⁷ Hence, the activism of citizens demanding accountability and redress for human rights abuses in their nation can lead to positive change.²⁴⁸

Activists have specifically labeled Russia as a nation in need of reform.²⁴⁹ In 2018, Human Rights Watch, an international group, raised attention to Russia’s domestic violence problem when it published the study, “I Could Kill You and No One Would Stop Me,” highlighting the problem of domestic violence in post-Soviet

protections for political rights afterward, but they rarely stop or appear to lessen acts of terror. Worse, terror sometimes increases after publicity.”); *see also* Dorothy Q. Thomas & Michele E. Beasley, *Domestic Violence as a Human Rights Issue*, 15 HUM. RTS. Q. 36, 48–49 (1993) (finding that international women’s rights activists can place pressure on “international governmental and nongovernmental human rights bodies” to promote “equal protection of the law” which then allows “domestic violence to be placed within the context of international human rights law and practice”).

²⁴³ Hendrix & Wong, *supra* note 242, at 653.

²⁴⁴ John Feffer, *#MeToo Goes Global*, INST. FOR POL’Y STUD. (Sept. 27, 2018), <https://ips-dc.org/metoo-goes-global/> [<https://perma.cc/PZB5-6LLZ>].

²⁴⁵ Audrey Carlsen et al., *#MeToo Brought Down 201 Powerful Men. Nearly Half of Their Replacements Are Women*, N.Y. TIMES, <https://www.nytimes.com/interactive/2018/10/23/us/metoo-replacements.html> [<https://perma.cc/6XX4-MU72>] (last updated Oct. 29, 2018).

²⁴⁶ In June 2019, the International Labor Organization adopted the Violence and Harassment Convention which seeks to combat discrimination in the workplace including “gender-based violence and harassment” based in part because of the #MeToo movement. *Violence and Harassment Convention*, INT’L LAB. ORG., https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190 [<https://perma.cc/D7ZD-GJAN>]; *see also* Nisha Varia, *Rewriting the Rules on #MeToo Globally*, HUM. RTS. WATCH (Apr. 30, 2019), <https://www.hrw.org/news/2019/04/30/rewriting-rules-metoo-globally> [<https://perma.cc/3QNY-86DT>].

²⁴⁷ Roache, *supra* note 142.

²⁴⁸ *See* Hendrix & Wong, *supra* note 242, at 653.

²⁴⁹ *See e.g.*, Gorbunova, *supra* note 7.

Russia in terms of its prevalence, brutality, and lack of redress.²⁵⁰ The ECtHR in the *Volodina* ruling made note of this study as a contributing factor as to why it ruled against Russia.²⁵¹ Nearly 1,000,000 people worldwide have signed a petition pushing for Russia to create a domestic violence law.²⁵² Public shaming can invoke action, and while Russia has yet to act, continued coverage could bring about reform as Russia faces criticism from citizens, NGOs, human rights groups, and other nations.

C. *The Need for Internal Reform*

For any success to occur, Russia, and not an outside judiciary or international organization, must initiate and support the change needed to protect its citizenry.²⁵³ Even the ECtHR reasoned when forming the Pilot-Judgment Procedure that systemic problems are addressed “more speedily if an effective remedy is established at [the] national level[.]”²⁵⁴

The Russian government is averse to change and reluctant to acknowledge that interfamilial violence permeates its society.²⁵⁵ Parliament has de-criminalized domestic battery,²⁵⁶ instituted procedural obstacles for victims to seek justice,²⁵⁷ and allowed dozens of pieces of legislation seeking increased victim protection to fail.²⁵⁸ The government also refuses to keep statistics on the issue.²⁵⁹ Further, Russia prevents activism for change by limiting

²⁵⁰ *Id.*

²⁵¹ *Volodina*, App. No. 41261/17, ¶¶ 66, 118, 122.

²⁵² *State Duma, Adopt the Domestic Violence Law in Russia*, CHANGE.ORG, https://www.change.org/p/state-duma-adopt-the-domestic-violence-law-in-russia?use_react=false [<https://perma.cc/6LBW-DE28>] (last visited June 15, 2020).

²⁵³ See Adams, *supra* note 5, at 69 (“[A] major step toward ending domestic violence is ‘ending the law’s complicity in it.’”).

²⁵⁴ EUR. CT. HUM. RTS., *supra* note 223, at 2.

²⁵⁵ Consider Russian Senator Yelena Mizulina who claims that NGOs distort and inflate statistics on domestic violence to increase their funding. *Domestic Violence Bill: Senator Says NGOs Distort Statistics in Bid for Grants*, RT (Feb. 1, 2017), <http://www.rt.com/politics/375943-senator-blames-feminist-lobby-for/> [<http://perma.cc/9RRH-CJDF>].

²⁵⁶ See *supra* Part III.A.

²⁵⁷ See *supra* Part III.B.

²⁵⁸ Yurtaev, *supra* note 74.

²⁵⁹ See *supra* notes 111–113.

protests,²⁶⁰ controlling the media,²⁶¹ and creating a hostile environment for NGOs.²⁶² In October 2019, the Justice Ministry responded to the ECtHR's request for answers as to whether Russia's justice system protected victims.²⁶³ In its response, Deputy Minister Mikhail Galperin criticized the claims about domestic violence as "quite exaggerated" and labeled the complaints in the ECtHR as an "attempt to undermine the legal mechanisms already codified in Russia[.]"²⁶⁴ Similarly, members of Parliament believe domestic violence is a non-issue; lawmaker Yelena Mizulina who proposed the 2017 law that de-criminalized domestic violence said that women "don't take offense when they see a man beat his wife" and that "a man beating his wife is less offensive than when a woman humiliates a man."²⁶⁵

It is not just Russian leadership that is reluctant to change – millions of citizens must also realize that protections for victims is the right course of action. However, the potential for change is limited as the rising conservative movement embraces violence to keep a house in order.²⁶⁶ Even a draft bill for domestic violence has created an uproar as citizens have filed over 11,000 comments on the bill, mostly negative.²⁶⁷ A government rules with the consent of the people, and with a populace that not only tolerates, but condones

²⁶⁰ See *supra* note 142.

²⁶¹ See *supra* note 131.

²⁶² See *supra* notes 139–141.

²⁶³ *Russia's Justice Ministry Says Claims About Domestic Violence Are Exaggerated, and Men Are the Real Discrimination Victims*, MEDUZA (Nov. 19, 2019), <https://meduza.io/en/news/2019/11/19/russia-s-justice-ministry-says-claims-about-domestic-violence-are-exaggerated-and-men-are-the-real-discrimination-victims> [<https://perma.cc/6UH4-S34C>].

²⁶⁴ Later in his statement, Galperin insinuated that men are the true victims: "Even if we assume that the majority of persons subjected to domestic violence in Russia are in fact women (though there is no evidence to support this statement), it is logical to assume that male victims suffer more from discrimination in such cases. They are in the minority and they are not expected to request protection from abuse at the hands of a family member, especially if inflicted by a member of the opposite sex." *Id.* (internal quotation marks omitted).

²⁶⁵ Roache, *supra* note 142.

²⁶⁶ See *supra* Part IV.B.ii.

²⁶⁷ Many comments complained not only of families being destroyed but of Western encroachment and fear of progressive ideas like feminism and LGBTQ rights. One commenter wrote, "We don't need Western licentiousness and false democracy," and another stated, "Let LGBT activists create their own laws[.]" Comments to *Draft Law on the Prevention of Domestic Violence*, *supra* note 16.

violence, it will be hard to implement reform.

However, there is hope as global conversations regarding gender violence have planted a seed of reform in Russian citizens which could change the minds of conservative citizens and mobilize the more liberal.²⁶⁸ Shortly after the *Volodina* ruling, Twitter users posted their stories of sexual harassment using the hashtag, #INeedOpenness, and Instagram users did the same using the hashtag #IDidn'tWanttoDie.²⁶⁹ And when the draft bill was released in 2019, conservatives may have signed letters and left comments, but hundreds of other Russians rallied in Moscow in support of the legislation and demanded further protections for women.²⁷⁰ The increased number of protests and global conversations show that there is a strong voice pushing for reform. As technology becomes ubiquitous and facilitates the spread of ideas, hopefully norms in Russia will shift towards empathy towards victims of violence.

VI. Conclusion

Russia faces a crisis leaving thousands of victims each year with no haven for protection against domestic violence. But the repugnant treatment of domestic violence in Russia no longer lurks in the shadows as the last few years have seen increased global criticism, unprecedented rulings in the EHCR and from the CEDAW Committee, media attention, and a younger generation demanding systemic change. Both the external and internal pressure on Russia to establish legislation and programs to help victims could invoke a systematic change. Whether this change comes due to

²⁶⁸ Social media can be a tool that contributes to empowerment and change. *See generally* Nouredine Miladi, *Social Media and Social Change*, 25 DIG. MIDDLE E. STUD. 36 (2016). For instance, in the revolution of 2011 in Tunisia, activists were able to use social media to mobilize online, share information, and plan in person protests and then in person. *Id.* at 39–41. Further, social media allows for citizens in nations where the media is government-controlled to fact check official stories, report the real facts and act as a watchdog. *Id.* at 43–45. These spaces have become places for political debate. *Id.* at 45. It can be inferred that Russian citizens can also empower and mobilize themselves through social media. *See generally* REZA JAMALI, *ONLINE ARAB SPRING: SOCIAL MEDIA AND FUNDAMENTAL CHANGE* (Chandos Publishing 2015).

²⁶⁹ Roache, *supra* note 142.

²⁷⁰ *See* Samantha Berkhead, *Moscow Feminists Protest for Domestic Violence Re-Criminalization*, MOSCOW TIMES (Nov. 26, 2019), <https://www.themoscowtimes.com/2019/11/26/moscow-feminists-protest-for-domestic-violence-re-criminalization-a68318> [<https://perma.cc/C9KU-A5BS>].

mandatory rulings from the ECtHR or from internal demand from citizens has yet to be decided. Russia's main obstacle, however, is the culture of acceptance in Russia that views violence as the glue which keeps families together and strong. This belief is pervasive and permeates the culture, preventing victims from seeking protection and remedies. In the future, there may be hope that victims of domestic violence, like Ms. Volodina, will be protected.

